

In the Matter of Merchant Mariner's Document No. Z-551861
Issued to: NED HOLMES

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

679

NED HOLMES

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations Sec. 137.11-1.

On 24 March, 1953, an Examiner of the United States Coast Guard at Portland, Maine, revoked Merchant Mariner's Document No. Z-551861 issued to Ned Holmes upon finding him guilty of misconduct based upon one specification alleging in substance that while serving as messman on board the American SS LIBERTY F under authority of the document above described, on or about 6 March, 1953, while said vessel was in the port of Portland, Maine, he wrongfully had in his possession certain narcotics, to wit, marijuana.

At the hearing, Appellant was given a full explanation of the nature of the proceedings, the rights to which he was entitled and the possible results of the hearing. He was represented by an attorney of his own selection, and on the advice of his counsel, he entered a plea of "guilty" to the charge and specification proffered against him.

Thereupon, the Investigating Officer made a statement of the circumstances attending Appellant's earlier arrest and confinement on a charge of fraudulently and knowingly bringing into the United States, certain merchandise contrary to law.

In defense, Appellant offered a statement of his life history, family background, and an explanation of the facts attending his purchase of the marijuana in a foreign port.

At the conclusion of the hearing, the Examiner announced his findings and concluded that the charge had been proved by plea and entered the order revoking Appellant's Merchant Mariner's Document No. Z-551861 and all other certificates of service held by Appellant.

From that order, this appeal has been taken, and it is urged: Appellant did not know the substance was unlawful; he has never used it nor known anyone who does use it; he did not intend to sell it; in eleven years at sea he has had no trouble on any vessel upon which he sailed; his confinement for four months in jail is sufficient punishment for his offense; and he has no other means of support - and jobs are hard to get.

Based upon my examination of the record submitted, I hereby make the following

FINDINGS OF FACT

On 6 March, 1953, Appellant was serving as messman on board the American SS LIBERTY F and acting under authority of his Merchant Mariner's Document No. Z-551861 while said vessel was in the harbor of Portland, Maine.

In the course of a special search detail by Customs officers, a quantity of marijuana (206 grains) was found in the pockets of trousers worn by Appellant; who was arrested, and later pleaded guilty before the Federal Court in Portland, Maine, on a charge of violating 18 U.S.C. 545 - the fraudulent bringing into the United States certain merchandise contrary to law. On that plea, Appellant was sentenced to serve four months in the Federal Jail at Danbury, Connecticut.

Appellant's explanation is as follows:

"In regard to this marijuana, I heard about the stuff. I never knew what it was. I just happened to meet a man who had some in Suda and got some from him. I paid 6 or 7 packages of cigarettes for it. I put it in my pants pocket. Then I went to a show. The pants I had taken off before I went ashore wasn't quite as clean as the ones I put on and I came back to the ship and pulled them off and didn't think about them anymore until about a day before we got in. We kind of clean up before we get into port. I put on my clean pants and the marijuana was in the pocket and while I had it in my pocket, I was in the head, shaving, and the Customs Guard came in and they found it."

For approximately 10 years Appellant has served as a merchant seaman with only one minor offense being charged against him.

OPINION

The points raised by this appeal are not impressive. It is difficult to understand why Appellant bought "the stuff" in Suda if he did not intend to use or sell it. His own statement is, "I thought I might try some of it." That "trial" might well have caused a most unfortunate incident on shipboard - which Coast Guard policy seeks to prevent.

No reason appears for me to disturb the Examiner's Order dated Portland, Maine, on 24 March, 1953; and that Order is AFFIRMED.

Merlin O'Neill
Vice Admiral, United States Coast Guard
Commandant

Dated at Washington, D. C., this 12th day of June, 1953.